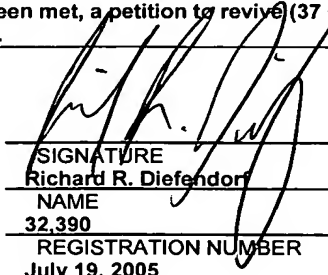


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TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 095309.55704US
		U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 10/517,822
INTERNATIONAL APPLICATION NO. PCT/EP03/04104	INTERNATIONAL FILING DATE 04/19/2003	PRIORITY DATE CLAIMED 06/15/2002
TITLE OF INVENTION METHOD AND AN ARRANGEMENT FOR PRODUCING ELECTRIC ENERGY BY MEANS OF AT LEAST ONE FUEL CELL		
APPLICANT(S) FOR DO/EO/US Dirk SCHROETER		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
1. <input type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371.		
2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371.		
3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.		
4. <input checked="" type="checkbox"/> The US has been elected (Article 31).		
5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))		
a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).		
b. <input type="checkbox"/> has been communicated by the International Bureau.		
c. <input type="checkbox"/> Is not required, as the application was filed in the United States Receiving Office (RO/US).		
6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).		
a. <input type="checkbox"/> is attached hereto.		
b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).		
7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))		
a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).		
b. <input type="checkbox"/> have been communicated by the International Bureau.		
c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.		
d. <input type="checkbox"/> have not been made and will not be made.		
8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).		
9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).		
10. <input checked="" type="checkbox"/> An English language translation of the German International Preliminary Examination Report, Supplementary Sheet under PCT Article 36 (35 U.S.C. 371(c)(5)) (two (2) pages).		
Items 11 to 20 below concern document(s) or information included:		
11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.		
12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.		
13. <input type="checkbox"/> A preliminary amendment.		
14. <input checked="" type="checkbox"/> A Supplemental Application Data Sheet under 37 CFR 1.76.		
15. <input type="checkbox"/> A substitute specification.		
16. <input type="checkbox"/> A power of attorney and/or change of address letter.		
17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825.		
18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).		
19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).		
20. <input checked="" type="checkbox"/> Other items or information: Copy of the Notification of Missing Requirements.		

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) 10/517,822		INTERNATIONAL APPLICATION NO. PCT/EP03/04104		ATTORNEY'S DOCKET NUMBER 095309.55704US	
The following fees have been submitted				CALCULATIONS	PTO USE ONLY
21. <input type="checkbox"/> Basic national fee \$300.00				\$	
22. <input type="checkbox"/> Examination fee					
If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4) \$100.00					
All other situations \$200.00				\$	
23. <input type="checkbox"/> Search fee					
Search fee (37 CFR 1.44(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority \$100					
International Search Report prepared and provided to the Office \$400					
All other situations \$500				\$	
TOTAL OF 21, 22 AND 23 =				\$	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
- 100	/ 50 =		x 250	\$	
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(h)).				\$0.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20		x 50	\$	
Independent claims	- 3		x 200	\$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ 360	\$	
TOTAL OF ABOVE CALCULATIONS =				\$0.00	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.					
SUBTOTAL =				\$0.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	
TOTAL NATIONAL FEE =				\$0.00	
Fee for recording the enclosed assignment (37 CFR 1.21 (h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$0.00	
				Amount to be refunded:	\$
				Amount to be charged:	\$
a. <input type="checkbox"/> A check in the amount of \$ to cover the above fees is enclosed.					
b. <input type="checkbox"/> Please charge my Deposit Account No. 05-1323 (Attorney Docket No. 095309.55704US) in the amount of \$ to cover the above fees. A duplicate copy of this sheet is enclosed.					
c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 05-1323 (Attorney Docket No. 095309.55704US). A duplicate copy of this sheet is enclosed.					
d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.					
SEND ALL CORRESPONDENCE TO: Crowell & Moring, LLP Intellectual Property Group P.O. Box 14300 Washington, D.C. 20044-4300 Tel. No. (202) 624-2500 Fax No. (202) 628-8844				 SIGNATURE Richard R. Diefendorf NAME 32,390 REGISTRATION NUMBER July 19, 2005 DATE	

RRD/dmg (doc no.) 095309.55704US

FORM PTO-1390 (REV. 02-2005)

Rec'd PCT/PTO

19 JUL 2005

INTERNATIONAL PRELIMINARY

International reference No. PCT/EP 03/04104

EXAMINATION REPORT – SUPPLEMENTARY SHEET

Re Item V

Reasonable determination with respect to novelty, inventive activity, and industrial applicability; documents and explanations to support this determination

The document D1 = US-A-5858569, which is considered the closest state of the art, discloses (see column 7, lines 23-43; fig. 2A-2C, 4, 4A-4D) an arrangement for the generation of electrical energy with at least one fuel element, consisting of a horizontally positioned membrane unit.

The object of this claim 1 **differs from D1** in that the fuel cell is arranged in a traffic vehicle for the transport of goods and/or persons.

The object of claim 1 is therefore formally new (Article 33(2) PCT).

The arrangement of a fuel cell in a traffic vehicle is, however, the preferred and known application for a fuel cell around the world, so that this distinguishing characteristic cannot be used as an argument in support of the inventive activity of the claimed object of the patent.

Therefore the object of claim 1 is **not based on inventive activity** (Article 33(3) PCT)

The arguments brought forth by the applicant, that more consistent conditions for the separation of reaction gases, carrier transportation, and the transport of the reaction products could be achieved by the horizontal arrangement of the membrane unit, at least in the European phase of this application, justify an application claim.

Zu Punkt V

Begründete Feststellung hinsichtlich der Neuheit, der erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur Stützung dieser Feststellung

Das Dokument D1 = US-A-5858569, das als nächstliegender Stand der Technik angesehen wird, offenbart (vgl. Spalte 7, Zeilen 23-43; Abbildungen 2A-2C, 4, 4A-4D) eine Anordnung zur Erzeugung elektrischer Energie mit wenigstens eine Brennstoffzellen, enthaltend eine in einer waagerechten Stellung angeordnete Membraneinheit.

Der Gegenstand des Anspruchs 1 **unterscheidet sich von D1**, dadurch daß die Brennstoffzelle in einem Straßenfahrzeug für den Güter- und/oder Personentransport angeordnet ist.

Der Gegenstand des Anspruchs 1 ist somit formal neu (Artikel 33(2) PCT).

Jedoch ist die Anordnung einer Brennstoffzelle in einem Straßenfahrzeug die weltweit bevorzugte und bekannte Verwendung einer Brennstoffzelle, so daß dieses Unterscheidungsmerkmal nicht zur Begründung der erfinderischen Tätigkeit des beanspruchten Gegenstands herangezogen werden kann.

Daher beruht der Gegenstand des Anspruchs 1 **nicht auf einer erfinderischen Tätigkeit** (Artikel 33(3) PCT)

Die vom Anmelder vorgebrachten Argumenten, daß durch die waagerechte Anordnung der Membraneinheit gleichförmigere Verhältnisse für die Trennung der Reaktionsgase, den Ladungsträgertransport und die Abfuhr der Reaktionsprodukte erzielt werden könnten, zumindest in der europäischen Phase dieser Anmeldung, einen Verwendungsanspruch gerechtfertigen.



Rec'd PCT/PTO

19 JUL 2005

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#5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/517,822	Dirk Schroeter	095309.55704US

INTERNATIONAL APPLICATION NO.

PCT/EP03/04104

LA. FILING DATE

04/19/2003

PRIORITY DATE

06/15/2002

23911

CROWELL & MORING LLP
 INTELLECTUAL PROPERTY GROUP
 P.O. BOX 14300
 WASHINGTON, DC 20044-4300

CONFIRMATION NO. 7054

371 FORMALITIES LETTER



OC00000016022677

Date Mailed: 05/23/2005

missing require.: 7.23.05

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 12/14/2004
- English Translation of the IA filed on 12/14/2004
- Copy of the International Search Report filed on 12/14/2004
- Copy of IPE Report filed on 12/14/2004
- Copy of Annexes to the IPE filed on 12/14/2004
- English Translation of Annexes to the IPE filed on 12/14/2004
- Preliminary Amendments filed on 12/14/2004
- Information Disclosure Statements filed on 12/14/2004
- Request for Immediate Examination filed on 12/14/2004
- U.S. Basic National Fees filed on 12/14/2004
- Substitute Specification filed on 12/14/2004
- Priority Documents filed on 12/14/2004
- Specification filed on 12/14/2004
- Claims filed on 12/14/2004
- Abstracts filed on 12/14/2004
- Drawings filed on 12/14/2004

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

Additionally the following defects have been observed:

- Annexes have not been entered because the annexes were not a page for page substitution.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

KAREN R MCLEAN

Telephone: (703) 308-9140 EXT 214

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/517,822	PCT/EP03/04104	095309.55704US

FORM PCT/DO/EO/905 (371 Formalities Notice)